



## **County of Santa Cruz Board of Supervisors**

### **Agenda Item Submittal**

**From:** Planning: Housing

(831) 454-2580

**Subject:** Accessory Dwelling Unit Program Updates

**Meeting Date:** November 19, 2019

### **Recommended Action(s):**

Accept and file report on the Accessory Dwelling Unit (ADU) programs, including the ADU Forgivable Loan Program, the My House My Home Program and the ADU Fee Waiver Program.

### **Executive Summary**

The Board requested this report on several occasions, most recently in October 2018 following approval of the Accessory Dwelling Unit (ADU) Fee Waiver Program.

### **Background**

The two ADU funding programs and the fee waiver program are part of the County's efforts to increase the local affordable housing stock by supporting development of ADUs. In order to promote ADU creation, in 2017 the County created guidebooks for property owners that are intended to help them through the ADU planning, financing and construction process. In association with development of the guidebooks, completed in May of 2018, three programs were created to incentivize construction and affordability of ADU's: the ADU Forgivable Loan Program, the My House My Home Program in partnership with Habitat for Humanity Monterey Bay (Habitat), and the ADU Fee Waiver Program. The fee waiver is available for ADUs that do not exceed 640 square feet.

### **Analysis**

#### *ADU Forgivable Loan Program*

This program was approved in 2018 as part of the adoption of the ADU guidebooks and assistance tools. The development of the ADU Financing Guide indicated the need for new lending tools to help property owners with limited equity and financial resources get ADU's built. In exchange for a deferred and forgivable loan of up to \$40,000, the property owner commits to providing an affordable rental unit for up to twenty years. Creation of the program has sparked interest in the community and, in particular, caught the interest of Bay Federal Credit Union (BFCU) which is also working to expand its ADU lending. The on-line ADU tools have proven to be very helpful in discussions with property owners, helping them to consider the best type of ADU for their properties and providing a budget tool to help understand costs. There are currently six homeowners who are continuing to contact the Housing Section with questions. No loans have been issued to date, but staff will continue to work with interested homeowners as they are ready and hopes to issue loans by the end of the fiscal year. The Housing Section has been working with BFCU on new loan types and is about to promote these, some of

which will be in partnership with BFCU.

### *My House My Home*

The My House My Home Program (MHMH) is led by Habitat for Humanity Monterey Bay (Habitat). The Program helps low income seniors remain in their homes by creating an ADU on the property either for them move into or to enable a caregiver to live on the property. This program was also approved in 2018. MHMH is based on a model created by Habitat and used in the City of Santa Cruz. Like the City program, potential participants in the County are challenged by the amount of money needed for required rehabilitation of the primary home. Habitat worked with two potential MHMH participants and in both cases the homes had significant deferred maintenance that the low-income homeowners had been unable to address. For different reasons, neither of the proposed projects worked out. The Executive Director who had spearheaded the MHMH Program no longer works for Habitat. While Habitat is currently hiring new leadership, the organization is uncertain whether they will be able to continue the MHMH program. Habitat has asked to continue the program through the current fiscal year to provide an opportunity to evaluate the ability to continue. Staff supports this approach and that the committed funds for the program remain through the fiscal year, with second-year funding as had also been committed, until such time that Habitat makes a determination about its capacity.

### *ADU Fee Waiver Pilot Program*

Year to date, between January 1 and October 31, 2019, the Planning Department has received 43 ADU building permit applications. Twenty-four of those applications requested the ADU fee waiver. ADUs over 640 square feet in floor area are not eligible for the fee waiver. In 2019 through October 31, the Department has issued building permits for 25 ADUs. Among the ADU permits issued in 2019, seven applications were submitted in 2019 while the other 18 were submitted between 2016 and 2018, when the fee waiver program was not yet available.

<b>ANNUAL ADU BUILDING PERMIT DATA</b>							
<b>2014 - YTD 2019</b>							
<b>Calendar Year</b>	<b>2014</b>	<b>2015</b>	<b>2016</b>	<b>2017</b>	<b>2018</b>	<b>YTD 2019</b>	<b>TOTAL</b>
Total Permits Issued	19	29	19	28	37	25	<b>157</b>
Total Applications Received	26	27	35	25	41	43	<b>197</b>
Fee Waivers Requested	n/a	n/a	n/a	n/a	n/a	24	<b>24</b>
* 24 of the 43 applications submitted in 2019 requested the fee waiver (~56%)							
YTD 2019 data through 10/31/19							

Planning staff has compiled additional data on long-term County ADU permitting trends and will present that information to the Board on December 10 as part of the 2020 Growth Goal report.

### *Recent State Legislation on ADUs*

Several new State laws were enacted in 2019 to streamline the regulation and permitting of ADUs by local governments. Planning staff is currently analyzing these bills to determine what code amendments will be required to maintain County compliance with State law. These new laws included Assembly Bills 68, 139, 670, 671, 881, and Senate Bill 13. A brief summary of the impacts of these bills is provided in Attachment A. This legislation further limits the powers of local governments to restrict and regulate ADUs, which was already quite limited due to various other ADU bills passed in recent years. Localities must permit ADUs with no more than a building permit and virtually no restrictions other than 4-foot side and rear yard setbacks, an 800-square foot maximum size limit, and a 16-foot height limit. Consistent with the County's existing regulations, localities must allow a "regular" ADU as well as a "Junior ADU". The County allows a "limited food preparation area" within a residence that is not associated with an ADU, which essentially meets the "Junior ADU" intent of the new state law. Another major change is that owner-occupancy requirements may not be imposed on the property as a condition of any ADU permits issued between 2020 and 2025. Short-term rental of ADUs is now also prohibited by State law, which is already the practice of Santa Cruz County. Please see Attachment A for more detail on these bills.

**Strategic Plan Element(s)**

Attainable Housing: Local Inventory

Attainable Housing: Community Development

**Submitted by:**

Kathleen Molloy, Planning Director

**Recommended by:**

Carlos J. Palacios, County Administrative Officer

**Attachments:**

- a ADU Legislation (Attachment A)

## Attachment A

## Summary of 2019 ADU Legislation

## Key Changes to State Law on Accessory Dwelling Units (ADUs):

- Allowed in More Locations: Jurisdictions are no longer allowed to impose minimum lot size requirements on ADU applications. ADUs are now also allowed on lots with multi-family dwellings. Adequacy of water and sewer services, or ADU impacts on traffic flow or public safety are the only allowable reasons for prohibiting ADUs in certain areas. Jurisdictions must consult with utility providers, if the jurisdiction is not providing those services to the site, before determining that water and sewer services are inadequate.
- Less Flexibility on Size Limits: Jurisdictions may not require the ADU to be larger than 220 SF, or smaller than 850 square feet for studio and one-bedroom ADUs, and or smaller than 1,000 square feet for two or more bedrooms. Localities may not impose any standard that would prevent the development of at least an 800 square foot, 16-foot tall ADU, and may not require side and rear setbacks of more than 4-feet.
- Less Parking: Localities may no longer require replacement parking when a garage is converted to an ADU, nor when the ADU is within 1/2 mile walking distance of public transit, which now includes any bus stop.
- Limited Review: Jurisdictions must ministerially approve an ADU or junior ADU meeting the new state standards within 60 days of receiving a complete application. However, if the applicant requests more time, the locality must grant the extension. The County may charge a fee to recover review costs. Localities must approve new detached or conversion ADUs with only a building permit. Physical nonconforming zoning issues may not be required to be corrected as part of an ADU or junior ADU permit.
- Multiple ADUs and Multi-family Structures: Up to two ADUs must be allowed, in addition to a single family dwelling, on the same lot (a junior ADU and either a conversion or detached ADU). Junior ADUs must be allowed even if the jurisdiction doesn't have an ADU ordinance, in which case it may only impose the few standards in state law. Multiple conversion ADUs must be allowed on lots with a multifamily dwelling, up to 25 percent of the existing multifamily dwelling units. Multifamily conversion ADUs must be converted from non-livable space. Up to two detached ADUs must be allowed on lots with multifamily dwellings, subject to a 16-foot height limit and 4-foot setback.
- More Limited Fees: Utility providers are now more limited in whether and how they can charge connection fees and capacity charges. Impact fees are prohibited for ADUs smaller than 750 square feet. They're allowed for large ADUs, but only proportional to the primary dwelling.
- No Owner-occupancy Requirements: ADUs permitted between January 1, 2020 and January 1, 2025 are exempt from owner-occupancy requirements imposed

## Attachment A

## Summary of 2019 ADU Legislation

as a permit condition or by local ordinance.

- No Short-term Rentals: Short-term rentals of ADUs are now prohibited by State law.
- Reduced Fees: Utility connection fees may be charged for detached ADUs in proportion to the square footage of the structure or the number of fixtures. Impact fees may not be charged for ADUs less than 750 square feet, and impact fees for larger ADUs must be proportional to ADU size.
- Amnesty Program: From January 1, 2020 until December 31, 2025, at the request of a property owner, a jurisdiction must delay code enforcement on ADU properties for up to five years.
- Nullification of Non-Compliant Local Codes: Local ADU ordinances that do not fully comply with State law as of January 1, 2020 may be declared null and void by the California Department of Housing Community Development (HCD). HCD may refer violations to the Attorney General.
- New Housing Element Requirements: Housing elements must now promote ADUs for affordable rent. HCD must provide financial incentives for affordable ADUs.
- Home Owner Associations HOAs are now limited, like local agencies, in restricting ADUs, although they are allowed somewhat more latitude in imposing restrictions than local governments are. HOA covenants will be unenforceable if they include restrictions that conflict with State ADU laws. HOAs may place “reasonable restrictions” on ADUs and junior ADUs in common interest developments, as long as the restrictions do not discourage ADU or junior ADU construction or unreasonably increase the cost to construct them.
- Separate sale of ADUs by non-profits: Separate sale or conveyance of ADUs from the main home is now okay in limited situations involving non-profit housing projects, if allowed by local ordinance. Localities are not required to allow this option.

## Links to ADU Bill Text:

- [AB 68](#) by Assemblymember Philip Ting (D-San Francisco) – Land use: accessory dwelling units.
- [AB 587](#) by Assemblymember Laura Friedman (D-Glendale) – Accessory dwelling units: sale or separate conveyance.

**Attachment A****Summary of 2019 ADU Legislation**

- [AB 671](#) by Assemblymember Laura Friedman (D-Glendale) – Accessory dwelling units: incentives.
- [AB 881](#) by Assemblymember Richard Bloom (D-Santa Monica) – Accessory dwelling units.
- [SB 13](#) by Senator Bob Wieckowski (D-Fremont) – Accessory dwelling units.